The Courts
Keeping the Republic, Chapter 9
Lone Star Politics, Chapter 4

The Courts (according to the Daily Show)

• “If the Constitution is the nation’s owner’s manual, then the judicial branch is American’s helpful 24-hour tech support, always available to explain how things work. And like any good tech support, it costs extra, takes forever to reach, and you don’t understand their instructions half the time anyway.”

Overview

• Legal Lingo
• The Structure of the Courts
• How the Supreme Court decides
• How Judges are Selected
Types of Cases

- Criminal Cases
  - Cases involving violation of rules made by government leading to punishment by fines or imprisonment
  - A defendant is accused of breaking the law and is prosecuted by the state

- Civil Cases
  - Civil cases involve disputes between individuals or groups over matters of responsibility or rights.
  - In a civil case, a plaintiff asserts that he or she has been harmed by the defendant.

Examples of Civil Cases

- Probate case
  - Deal with the disposal of property of a deceased individual
- Tort cases
  - Involves personal injury or damage to property
Types of Juries

• Grand Juries
  – Groups of citizens who indict and decide whether there is sufficient evidence to hold a trial

• Trial juries
  – Juries that hear evidence and sit in judgment

Jurisdiction

• Jurisdiction
  – The authority of a court to decide a case
  – Based on subject matter of cases, the individuals involved, or the geographic location of the dispute

• Original jurisdiction
  – The authority to make the first decision in a particular kind of dispute.
  – These courts hear evidence and decide the facts of a case—guilt or innocence in a criminal case or responsibility in the case of civil cases.
Jurisdiction

• Appellate jurisdiction
  – The authority to review cases from a “lower” court
  – Involves questions of law

Appeals

• Appeal
  – The right to take a case to a higher court
• Writ of certiori
  – When a court orders a lower court to send up the records of a case. Does not commit the higher court to actually hear the case.

Precedents

• Previous decisions of courts that are applied to present and future cases involving similar questions.
Special Cases

• Class Action Suits
  – A suit filed by an individual on behalf of him/herself and many others harmed in a similar manner.

Other Lingo

• Briefs
  – Documents presented to the court setting out arguments
Texas State Courts

- Supreme Court
- Court of Criminal Appeals
- Court of Appeals
- County-Level Courts
- District Courts
- Municipal Courts
- Justice of the Peace Courts

Justice of the Peace Courts

- 821 Courts/Judges in Texas
- Jurisdiction
  - Criminal misdemeanors with fines under $500 (Mostly traffic cases)
  - Civil Actions under $5,000 ("Small Claims Court")

Municipal Courts

- 913 Courts with 1,458 judges
  - Exclusive jurisdiction over municipal ordinance violations with fines less than $2,000
  - "Class C" criminal misdemeanors with fines less than $500
  - Very limited civil jurisdiction
- **83% of cases are traffic or parking**
County Courts (499)
• Constitutional County Courts (254)
  – Mostly Probate Cases
  – County Court Judges are also chief executive of their county
• County Courts at Law (227)
  – Created by legislature to supplement constitutional courts
  – Family law cases
  – Class A&B misdemeanors
• Probate Courts (18)

District Courts (449)
• 449 Courts with 449 judges
• At least one per county
• Original jurisdiction in felony criminal cases
• Large civil cases

Courts of Appeals
• 14 courts each with a 3-judge panels
• Hear appeals from district and county courts
  – Exception: Death penalty cases go directly to the Court of Criminal appeals
Court of Criminal Appeals
- 1 court with 9 justices
- Final state appellate court for criminal cases

Supreme Court
- 1 court with 9 justices
- Final state appellate court for civil cases
  - Only Texas and Oklahoma have separate supreme courts for civil and criminal cases

Federal Courts
Federal Courts

U.S. District Courts
• 94 Districts with over 600 judges
• Each district has a Marshall to carry out orders
• Texas has 4 districts

U.S. District Courts
• Original jurisdiction
  – Federal crimes
  – Bankruptcy cases
  – Admiralty and maritime cases
  – Civil suits under federal law
  – Review actions of federal agencies
  – Civil suits of more than $50,000 between citizens of different states
U.S. District Courts
• Appellate jurisdiction
  – None

Courts of Appeals
• Hear appeals from federal district courts and other federal courts
• Often called federal circuit courts
• 12 Districts or “Circuits”

The US Supreme Court
• 1 court with 9 justices
• Size fluctuated but remained at 9 since 1869
The US Supreme Court

- Original jurisdiction
  - Cases involving ambassadors and diplomats
  - Cases between two or more states
  - Cases between the federal government and a state
  - Cases between a state and a citizen of another state

The US Supreme Court

- Appellate jurisdiction
- Cases from...
  - State supreme courts
  - Federal Circuit courts

U.S. Supreme Court
200 cases a year

Original Jurisdiction
5% of Supreme Court cases

US Courts of Appeals
5,000 cases a year

State Supreme Courts
65% of cases

Federal District Courts
300,000 cases a year

Intermediate State Appellate Courts
40,000 cases a year are appealed

State Trial Courts
9,000,000 cases a year

30% of Supreme Court cases

65% of cases

5% of Supreme Court cases
How the Supreme Court Decides

1. If a case is selected for review, the Supreme Court agrees to hear the case.
2. Lawyers from both sides present their arguments in written briefs.
3. The justices meet to discuss and decide the case in conference.
4. The written opinion of the Court is read by lawyers and judges and guides their work.

How Judges are Selected

Texas Judges
- State judges are elected in partisan elections
- Some municipal (city) judges are appointed by city commissions
Ways to remove a Texas Judge

- Wait for next election
- Removal by legislature
- State Commission on Judicial Conduct may recommend removal by special tribunal drawn from courts of appeals

Reasons for Reforming Judicial Selection in Texas

Amateur Justice
Partisanship
“Justice for sale”

Requirements for Justice of the Peace

- Elected every four years
- Must take 40 hour course within a year of election and 20 hours each year thereafter
  - 92% finished high school
  - 32% finished college
  - About 7% finished law school
Requirements for Constitutional County Court Judges

- Elected county-wide every 4 years
- Must “be well informed in the law of the State”
- About 25% are lawyers
- In 1983 legislature mandated courses in administration, procedure and evidence

Partisanship

• How do voters vote on judges at the bottom of the ballot?

“Justice for Sale”

• In 1986 the average winning candidates averaged spending $836,000 to win seats on Texas’s highest courts
• In 1987 60 Minutes showed how the judges in an $11 billion judgment for Pennzoil had taken thousands of dollars from Pennzoil’s lawyers who argued the case
Justice for Sale

- Texas Supreme Court Justices receive 52% of their campaign funds ($6.7 million out of $12.8 million) from people associated with the 4,237 “petitions for review” before the Court.

Who Did They Hear?

- 40% of petitions were filed by contributors (60% by others)
- The Court accepted 5.5% of the petitions in general
- They accepted 20% of petitions filed by contributors
  So, contributors were almost 4 times more likely to have their petition accepted.
- Petitioners who gave $100,000 or more were 7.5 times more likely to have their petition accepted.
- Petitioners who gave $250,000 or more were 10 times more likely to have their petition accepted.

Percentage of Petitions Accepted by Donation Amount

- Bar chart showing the percentage of petitions accepted for different donation amounts.
Was Justice Bought?

- Donors got their way more often than non-donors.
  - May be due to Justices favoring their contributors
  - May be due to contributors succeeding in getting their people elected

Judges in Other State

- Nonpartisan elections
- Merit selection
  - Appointed by governor with periodic “retention” elections
- Missouri Plan
  - Governor selects nominees from list from nominating commission with periodic “retention” elections

Federal Judges

- Appointed for life by the President
- Confirmation Politics
  - Senatorial courtesy
Interpreting the Constitution

Who Interprets the Constitution?

• Judicial Review
  – *Marbury v. Madison* (1803)
  – The Court ruled that the Judiciary Act of 1789 which authorized the court to issue a writ of mandamus was unconstitutional.
  – In denying itself the power outlined in the law it asserted its right to declare laws unconstitutional

The Courts and Public Opinion